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UNITED STATES OF AMERICA

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUL 26 2004

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WALTER A.Y.H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 02-00552 DAE
)	
Plaintiff,)	SECOND SUPERSEDING
)	INDICTMENT
v.)	
)	[21 U.S.C. §§ 846, 856
ARIETA YAMAGUCHI,	(02))	and 841(a); 18 U.S.C.
LILO FAAFITI,	(04))	\$ 2]
and)	
CHOON-JA MILLER,	(06))	
)	
Defendants.)	
)	

SECOND SUPERSEDING INDICTMENT

COUNT 1

The Grand Jury charges:

Beginning from a date unknown, but by November,
2001 to and including December 17, 2002, in the District of
Hawaii and elsewhere, ARIETA YAMAGUCHI, LILO FAAFITI, and

CHOON-JA MILLER, a.k.a. "Old Lady," a.k.a. "Mama," a.k.a. Jeanie Miller, together with others unknown and known to the Grand Jury, including Carmelita Maldonado, Olita Faafiti, a.k.a. Olita Asiata, Sui Faafiti, Jr., Tui Masina, John Uti, and Sui Faafiti, Sr., not charged as defendants herein, conspired together and with others known and unknown to knowingly and intentionally distribute and to possess with the intent to distribute:

- 1) 50 grams or more of a mixture or substance that contains a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, which contains cocaine base, a.k.a. "crack cocaine," to wit, at least 1.5 kilograms of cocaine base, and

- 2) cocaine, to wit, at least 15 kilograms but less than 50 kilograms of cocaine, both Schedule II controlled substances.

WAYS AND MEANS OF CONSPIRACY

1. Carmelita Maldonado and LILO FAAFITI obtain crack cocaine and/or cocaine Hcl from suppliers.

2. Carmelita Maldonado and LILO FAAFITI send or bring the crack cocaine and/or cocaine Hcl to ARIETA YAMAGUCHI and OLITA FAAFITI, a.k.a. Olita Asiata for redistribution.

3. ARIETA YAMAGUCHI and Olita Faafiti, a.k.a. Olita Asiata and others "cook" the cocaine Hcl received into crack cocaine.

4. ARIETA YAMAGUCHI and Olita Faafiti, a.k.a. Olita Asiata send the crack cocaine to the L & D Bar via "runners," including LILO FAAFITI and Sui Faafiti, Jr., where the crack cocaine is sold by sub-distributors.

5. LILO FAAFITI and others deliver drug proceeds to ARIETA YAMAGUCHI and Olita Faafiti, a.k.a. Olita Asiata.

6. ARIETA YAMAGUCHI and Olita Faafiti, a.k.a. Olita Asiata sell crack cocaine to customers from the L & D Bar.

7. CHOON-JA MILLER, a.k.a. "Old Lady," a.k.a. "Mama," a.k.a. "Jeanie Miller," leases the L & D Bar located at 125 North Hotel Street. CHOON-JA MILLER, a.k.a. "Old Lady," a.k.a. "Mama," a.k.a. "Jeanie Miller," permits the sub-distributors of ARIETA YAMAGUCHI and Olita Faafiti, a.k.a. Olita Asiata, to distribute crack cocaine and powder cocaine from the L & D Bar for a fee.

8. CHOON-JA MILLER, a.k.a. "Old Lady," a.k.a. "Mama," a.k.a. "Jeanie Miller," collects \$100 per day from ARIETA YAMAGUCHI or Carmelita Maldonado or Olita Faafiti, a.k.a. Olita Asiata for the use of the L & D Bar as a drug distribution point.

9. Tui Masina, John Uti, and Sui Faafiti, Sr. sell crack cocaine to customers within the L & D Bar.

10. The conspirators use cellular and land line telephones, pagers, and voice mail messaging systems to communicate.

OVERT ACTS

1. On February 20, 2002, ARIETA YAMAGUCHI distributed 1.9 grams of crack cocaine to another person at the L & D Bar.

2. On February 20, 2002, ARIETA YAMAGUCHI distributed 2.0 grams of crack cocaine to another person at the L & D Bar.

3. On March 13, 2002, ARIETA YAMAGUCHI distributed 21.9 grams of crack cocaine to another person at the L & D Bar.

4. On March 14, 2002, Olita Faafiti, a.k.a. Olita Asiata, distributed 7.4 grams of crack cocaine to another person at the L & D Bar.

5. On March 14, 2002, Olita Faafiti, a.k.a. Olita Asiata, provided "Maria," not charged as a defendant herein, with .84 grams of crack cocaine for redistribution.

6. On June 4, 2002, ARIETA YAMAGUCHI distributed 5.2 grams of crack cocaine to another person at the L & D Bar.

7. On June 10, 2002, ARIETA YAMAGUCHI distributed 7 grams of crack cocaine to another person at the L & D Bar.

8. On August 6, 2002, Carmelita Maldonado distributed 23.2 grams of crack cocaine to another person.

9. On August 6, 2002, LILO FAAFITI distributed 54.0 grams of cocaine.

10. On October 14, 2002, Sui Faafiti, Jr. delivered crack cocaine to the L & D Bar.

11. On November 1, 2002, Sui Fafiiti, Jr. delivered cash to Carmelita Maldonado.

12. On November 13, 2002, Sui Faafiti, Jr. delivered cash to Carmelita Maldonado.

All in violation of Title 21, United States Code, Section 846.

COUNT 2

The Grand Jury further charges:

Beginning from a date unknown, but by November, 2001 to and including December 17, 2002, in the District of Hawaii, CHOON-JA MILLER, a.k.a. "Old Lady," a.k.a. "Mama," a.k.a. Jeanie Miller, knowingly managed and controlled a building, room and enclosure, as a lessee, to wit, the L & D Bar, and knowingly and intentionally rented and made available for use, with or without compensation, the L & D

Bar for the purpose of unlawfully distributing a controlled substance.

All in violation of Title 21, United States Code, Sections 856(a)(2) and 856(b).

COUNT 3

The Grand Jury further charges:

On or about February 20, 2002, in the District of Hawaii, ARIETA YAMAGUCHI knowingly and intentionally distributed a mixture or substance containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, which contains cocaine base, a.k.a. "crack cocaine," to wit, 1.9 grams of cocaine base, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(C).

COUNT 4

The Grand Jury further charges:

On or about February 20, 2002, in the District of Hawaii, ARIETA YAMAGUCHI knowingly and intentionally distributed a mixture or substance containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, which contains cocaine base, a.k.a. "crack cocaine," to wit, 2.0 grams of cocaine base, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(C).

COUNT 5

The Grand Jury further charges:

On or about March 13, 2002, in the District of Hawaii, ARIETA YAMAGUCHI knowingly and intentionally distributed 5 grams or more of a mixture or substance containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, which contains cocaine base, a.k.a. "crack cocaine," to wit, 21.9 grams of cocaine base, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(B).

COUNT 6

The Grand Jury further charges:

On or about June 4, 2002, in the District of Hawaii, ARIETA YAMAGUCHI knowingly and intentionally distributed 5 grams or more of a mixture or substance containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, which contains cocaine base, a.k.a. "crack cocaine," to wit, 5.2 grams of cocaine base, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(B).

COUNT 7

The Grand Jury further charges:

On or about June 10, 2002, in the District of Hawaii, ARIETA YAMAGUCHI knowingly and intentionally distributed 5 grams or more of a mixture or substance containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, which contains cocaine base, a.k.a. "crack cocaine," to wit, 7.0 grams of cocaine base, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(B).

COUNT 8

The Grand Jury further charges:

On or about August 6, 2002, in the District of Hawaii, LILO FAAFITI knowingly and intentionally distributed a mixture or substance containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, to wit, 54.0 grams of cocaine, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(C).

COUNT 9

The Grand Jury further charges:

On or about December 17, 2002, in the District of Hawaii, ARIETA YAMAGUCHI knowingly and intentionally possessed with the intent to distribute a mixture or substance containing a detectable amount of cocaine, its salts, optical and geometric isomers, and salts of isomers, which contains cocaine base, a.k.a. "crack cocaine," to wit, 4.5 grams of cocaine base, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Sections 841(a) and 841(b)(1)(C).

SENTENCING CONSIDERATIONS

1. ROLE IN OFFENSE:

A) For the offense charged in Count 1, ARIETA YAMAGUCHI was an organizer, leader, manager, and supervisor of a criminal activity that involved five or more participants or was otherwise extensive.

2. AMOUNT OF CONTROLLED SUBSTANCES
REASONABLY FORESEEABLE TO ARIETA YAMAGUCHI:

A) For the offense charged in Count 1, ARIETA YAMAGUCHI knew or it was reasonably foreseeable to ARIETA YAMAGUCHI that, in the course of the conspiracy, 1.5 kilograms or more of cocaine base, a.k.a. "crack cocaine"

was distributed or possessed with the intent to distribute in furtherance of a jointly undertaken criminal activity.

B) For the offense charged in Count 1, ARIETA YAMAGUCHI knew or it was reasonably foreseeable to ARIETA YAMAGUCHI that, in the course of the conspiracy, at least 15 kilograms but less than 50 kilograms of cocaine Hcl was distributed or possessed with the intent to distribute in furtherance of a jointly undertaken criminal activity.

3. AMOUNT OF CONTROLLED SUBSTANCES
REASONABLY FORESEEABLE TO LILO FAAFITI:

A) For the offense charged in Count 1, LILO FAAFITI knew or it was reasonably foreseeable to LILO FAAFITI that, in the course of the conspiracy, 1.5 kilograms or more of cocaine base, a.k.a. "crack cocaine" was distributed or possessed with the intent to distribute in furtherance of a jointly undertaken criminal activity.

B) For the offense charged in Count 1, LILO FAAFITI knew or it was reasonably foreseeable to LILO FAAFITI that, in the course of the conspiracy, at least 15 kilograms but less than 50 kilograms of cocaine Hcl was

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distributed or possessed with the intent to distribute in
furtherance of a jointly undertaken criminal activity.

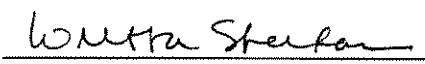
DATED: JUL 28 2004, at Honolulu, Hawaii.

A TRUE BILL

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FOREPERSON, GRAND JURY

EDWARD H. KUBO, JR.
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